

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION

DAVID DALE WISER

PLAINTIFF

V.

CIVIL NO. 06-5227

GRAVETTE POLICE DEPARTMENT,
DECATUR POLICE DEPARTMENT, and
BENTON COUNTY SHERIFF'S DEPARTMENT

DEFENDANTS

ORDER

Plaintiff's complaint was filed in this case on December 6, 2006. Before the undersigned is the issue of whether the complaint should be served. In order to assist the court in making such determination, it is necessary that plaintiff provide additional information with respect to his claims.

Accordingly, it is ordered that plaintiff complete and sign the attached addendum to his complaint, and return the same to the court **by December 27, 2006. Plaintiff is advised that should he fail to return the completed and executed addendum by December 27, 2006, his complaint may be dismissed without prejudice for failure to prosecute and/or for failure to obey an order of the court.**

IT IS SO ORDERED this 7th day of December 2006.

/s/ Beverly Stites Jones
HON. BEVERLY STITES JONES
UNITED STATES MAGISTRATE JUDGE

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ADDENDUM TO COMPLAINT

TO: DAVID DALE WISER

This form is sent to you so that you may assist the court in making a determination as to the issue of whether your complaint should be served upon the defendants. Accordingly, it is required that you fill out this form and send it back to the court **by December 27, 2006**. Failure to do so will result in the dismissal of your complaint.

The response must be legibly handwritten or typewritten, and all questions must be answered completely in the proper space provided on this form. If you need additional space, you may attach additional sheets of paper to this addendum.

RESPONSE

In your complaint, you allege that, on August 28, 2006, your truck was stolen and you filed a police report with the Gravette Police Department. Eight days later, you state that you were told that Troy Rusk was seen in your truck. You indicate that you searched for your vehicle and found it near some dumpsters in Delaware County, Oklahoma. You took your truck back to Gravette and called Benton County to notify them that you had your truck back. While you were on the phone with Benton County, the Gravette Police Department arrested you for stealing Troy Rusk's truck. The Gravette Police Department was attempting to clear up the matter, when they got a call

regarding a robbery. You allege that you were left in handcuffs with a Benton County Sheriff's Deputy. Delaware County then showed up on scene and asked whether Benton County would be pressing charges against you. Benton County stated that they would not and just needed you to give a statement. Your statement was taken and Benton County took pictures of the inside and outside of the truck. You then leave the vehicle at your girlfriend's mother's house and walk home. Later that night, you allege that Troy Rusk stole your truck a second time. Again, you phoned Gravette Police Department to report the vehicle stolen were informed that you would need to file another report. So, you called the Decatur Police Department, where Troy Rusk lives, and they stated that they had seen Troy driving the vehicle you described. You told the Officer that you have reported the vehicle stole and she told you that was not the story she had heard. You had the Gravette Police Department contact her, and as a result, the Officer had your truck towed to Decatur Salvage. You were allegedly told that you would have to pay an impound fee to get your vehicle back.

1. Please provide the dates of your incarceration at the Benton County Jail ("BCJ").

Answer:

2. Why are you incarcerated at the BCJ? Are you awaiting trial on pending criminal charges, serving a sentence, or has your probation, parole, or supervised release been revoked?

Answer:

3. You state that your claim is against two Police Officers but do not provide their names.

Please state the name and address of those officers.

4. You have filed suit against the Gravette Police Department, Decatur Police Department, and Benton County Sheriff's Office. However, police and sheriff departments are not entities subject to suit. To effect service in your case, we will need to know the names of the individual defendants. Please provide the name and address for each person you wish to sue.

5. Have you paid the impound fee to get your vehicle back?

YES _____ NO _____

If so, please state how much the fee was.

6. Do you contend that you are unable to get your vehicle back because you do not have the money to pay the impound fee?

YES _____ NO _____

7. Are you filing suit merely because you had to pay or will have to pay this impound fee?

YES _____ NO _____

If your answer is no, please explain the basis of your suit.

8. You indicate that a grievance procedure was not available to you. Why not?

9. Did you attempt to file a grievance or write a letter of complaint to any of the departments you have listed as defendants concerning the events alleged in your petition.

Answer:

10. Please state in detail how you believe each defendant has violated your federal constitutional rights.

Answer:

11. Are you suing the defendants in their individual capacity, official capacity, or both?

Claims against individuals in their official capacities require proof that a policy or custom of the entity violated your rights. Personal capacity claims, on the other hand, are those which allege

personal liability for individual actions by officials in the course of their duties.

I CERTIFY THAT THE INFORMATION CONTAINED HEREIN IS COVERED BY THE
VERIFICATION MADE BY ME ON MY INITIAL COMPLAINT.

DAVID D. WISER

DATE